REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 5-6 and 9-14 are pending in the application. Claims 1-2, 5-6, 9-12 are amended; Claims 13-14 are newly added; and Claims 3-4 and 7-8 are canceled without prejudice or disclaimer by the present amendment. Support for the new and amended claims can be found in the original specification, claims and drawings. No new matter is added.

In the outstanding Official Action, Claims 1-12 are rejected under 35 U.S.C. §102(e) as anticipated by Hayama et al. (U.S. Patent 7,006,484, hereinafter Hayama). In response to this rejection, Applicants respectfully submit that amended independent Claims 1, 2, 6, 10 and 12 recite novel features clearly not taught or rendered obvious by the applied reference.

Independent Claim 1 recites a mobile communication system, comprising:

> a holding unit configured to hold layered data and data indicating an amount of radio resources required for transmitting the layered data;
>
> a determination unit configured to determine at least one layered data to be transmitted from base stations to mobile stations for respective radio areas, with reference to the holding unit, based on area resource information concerning radio resources for the respective radio areas covered by the base station; and
>
> a radio transmitter configured to transmit the at least one layered data determined by the determination unit from the base station to the mobile station.

Independent Claims 2, 6, 10 and 12, while directed to alternative embodiments, recite similar features to those emphasized above. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 2, 6, 10 and 12.

As described in an exemplary embodiment at p. 12, lines 9-31, the transmission data management unit 24 of the radio network controller 20 is capable of determining which layers of data should be sent to a base station 10 for subsequent transmission to a mobile station 30 based on resource information corresponding to the radio area 40 served by the

base station and stored data 24a corresponding to the resources required for transmitting the layered data. Thus, when there is insufficient resources to transmit all the layers of a specific communication, the radio network controller sends only a selected subset of layers to the base station for subsequent transmission to make most efficient use of the available resources.

Turning to the applied reference, Hayama describes a radio communication system arranged to deliver multimedia information to plural mobile stations through the radio channels connected in a CDMA system.[1] Hayama's base station includes an interface for receiving a frames of prioritized layered information and an allocating device for allocating the frame received on the interface to a proper channel according to its transmission priority.[2] Thus, Hayama describes that the data is layered in advance and is then sent to the base station for subsequent transmission.

Hayama, however, fails to teach or suggest that the mobile communication system includes "a determination unit configured to ***determine at least one layered data to be transmitted from base stations to mobile stations*** for respective radio areas, with reference to the holding unit, ***based on area resource information*** concerning radio resources for the respective radio areas covered by the base station" as recited in independent Claim 1.

In addressing the claimed features directed to the "determination unit" the outstanding Official Action relies on col. 2, lines 1-13 and col. 5, line 49-col. 6, line 37 of Hayama. As discussed above, col. 2, lines 1-13 describes that the base station includes an interface for receiving a frame of each layered information component with its transmission priority and an allocating device for allocating the frame received on the interface to a proper channel according to the transmission priority. Col. 5, line 49-col. 6, line 37 of Hayama describes the use of a contents editor 550 to assign priority levels to layers of multimedia information. Specifically, this cited portion of Hayama describes that information to be transmitted to a

[1] Hayama, col. 1, line 64 – col. 2, line 1.
[2] Id., col. 2, lines 2-6.

mobile station is categorized based on importance such that the higher prioritized layers are assigned more favorable transmission channels to ensure their reception at the mobile terminal.

Hayama, however, does not describe determining layers of data for transmission to respective base stations based on information concerning radio resources for the respective radio areas covered by the base stations. Instead, Hayama, as noted above, describes that data is assigned layers in the contents editor 550 before the data is transmitted to a base station for subsequent transmission to a mobile station. At no point does Hayama describe that area resource information concerning radio resources for the respective radio areas covered by the base stations are considered in determining layers of data for transmission to respective ones of base stations, whatsoever. More specifically, Hayama fails to teach or suggest taking into consideration the condition of the radio resources at each of the mobile stations before determining layers of data for transmission to each of those base stations.

Moreover, as described at col. 5, lines 49-64, in Hayama's system the base station 201 transmits all layers of the multimedia information layered by the contents editor 550 and accumulated in the information database 502 to a mobile station 100. Consequently, the mobile station 100 receives only the layer which can be received according to the wave circumstances of the mobile station 100. For example, according to the wave circumstances of the mobile station 100, the mobile station may receive only the layer with the highest significance or priority or may receive the layer with the highest significance or priority and one or more additional information layers.

Therefore, Hayama fails to teach or suggest "***determining at least one layered data to be transmitted from base stations to mobile stations*** for respective radio areas... ***based on area resource information*** concerning radio resources for the respective radio areas covered by the base station" and transmitting the determined data as recited in independent Claim 1.

Further, col. 12, line 58-col. 13, line 5 of Hayama describes that the base station 210 determines a transmission power (i.e. radio resource) which is used for transmitting each of the layered multimedia information to the mobile station according to significance or priority. However, such a feature is clearly not the same as "***determining the layered data to be transmitted to the mobile station*** for respective radio areas, according to the radio resources for the respective radio areas, as recited in amended independent Claim 1.

Additionally, Hayama describes an information database 502 for storing the layered multimedia information, but Hayama fails to teach or suggest "holding layered data ***and data indicating an amount of radio resources required for transmitting the layered data***," as recited in amended independent Claim 1.

Accordingly, Applicants respectfully request that the rejection of Claim 1 (and the claims that depend therefrom) under 35 U.S.C. §102 be withdrawn. For substantially similar reasons, it is also submitted that independent Claims 2, 6, 10 and 12 (and the claims that depend therefrom) patentably define over Hayama.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-2, 5-6 and 9-14 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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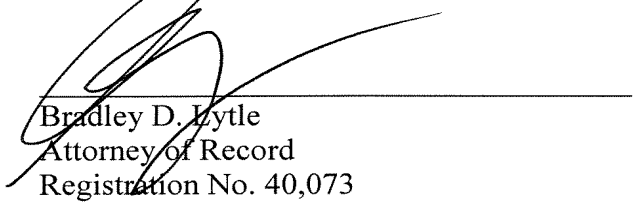

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